

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

| | | |
|---------------------------------------|----------|------------------------------|
| IN RE: | § | CASE NO. 08-13555 |
| | § | (JOINTLY ADMINSTERED) |
| LEHMAN BROTHERS HOLDINGS, INC. | § | |
| | § | |
| | § | |
| DEBTORS | § | CHAPTER 11 |

**TRAVIS COUNTY'S MOTION
FOR LATE FILING AND ALLOWANCE OF
PROOF OF CLAIM**

TO THE HONORABLE JUDGE OF SAID COURT:

THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS. IF NO TIMELY RESPONSE IS FILED WITHIN **TWENTY-ONE (21) DAYS** FROM THE DATE OF SERVICE, NO HEARING WILL BE HELD AND THE RELIEF REQUESTED IN THE MOTION WILL BE GRANTED PRIOR TO THE DATE SET FORTH BELOW. A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.

COMES NOW, Nelda Wells Spears, Travis County Tax Assessor-Collector, for and on behalf of the following Taxing Authorities: Travis County, Eanes Independent School District, Water Control and Improvement District Number 10, Travis County Hospital District, and Travis County Emergency Services District Number 9 (hereinafter "Travis County"), and files this Motion for Late Filing and Allowance of Proof of Claim, and as grounds would state as follows:

1. Travis County is a secured creditor of Debtors by virtue of unpaid personal property ad valorem taxes in the amount of \$3,856.44.
2. Travis County received notice of this bankruptcy on November 4, 2008. However, at the time Travis County could not determine if personal property billing number 784649 was owned by any of the bankrupt Debtors because the accountholder was

Lehman Brothers, Small Business Finance with a mailing address of 6207 Bee Cave Road, Suite 150, Austin, TX 78746.

3. Therefore, on December 4, 2008, Travis County faxed over a letter, attached hereto as Exhibit "A", to Harvey R. Miller, the debtors' attorney, which contained the detailed information of personal property billing number 784649. In the letter, Travis County requested that he confirm whether or not personal property billing number 784649 belonged to the Debtors.

4. On December 9, 2008, Travis County contacted Mr. Harvey Miller's office and spoke with Nadav Weg, who stated that he would research to verify if property billing number 784649 belonged to the Debtors.

5. On the same day, Mr. Nadav Weg returned Travis County's call and informed us that he did not find the property address associated with billing number 784649 in the Debtors' records but would forward the letter to them.

6. On January 6, 2009, Travis County attempted to contact Mr. Nadav Weg to follow up on the letter, Mr. Nadav Weg was not available, and therefore, a voice message was left. That same day, Mr. Nadav Weg returned Travis County's call to inform us that billing number 784649 did not belong to his client.

7. On August 6, 2010, the Travis County Attorney's Office state tax collections team received correspondence, attached hereto as Exhibit "B", from Sarah Cave at Hughes, Hubbard & Reed LLP in response to a "[c]omplaint dated July 28, 2010" styled *Travis County, et al., vs. Lehman Brothers, Inc. dba Small Business Finance*, Cause No. D-1-GV-10-001060, related to the delinquent 2007-2009 personal property taxes on billing number 784649.

8. Travis County will show that due to the representation by the debtor's attorney's office that property billing number 7874649 did not belong to the Debtors, Travis County was not able to file its claim in a timely manner.

9. In the interest of justice, Travis County respectfully requests that its late filed Proof of Claim be allowed so that Travis County may pursue its claim in accordance with the law. Neither Debtors nor any party-in-interest will be harmed or injured by allowance of the claim any more than it would have been injured or damaged had the Proof of Claim been filed timely. Travis County will be damaged if the Court does not allow the late filed Proof of Claim.

WHEREFORE PREMISED CONSIDERED, Travis County respectfully requests the court grant Travis County's Motion for Late Filing and Allowance of Proof of Claim for the reasons stated above, and for such other and further relief to which Travis County may show itself justly entitled.

Respectfully submitted,

DAVID ESCAMILLA
County Attorney, Travis County
P. O. Box 1748
Austin, Texas 78767
(512) 854-9513 Telephone
(512) 854-4808 Telecopier

BY: /s/ Karon Y. Wright
KARON Y. WRIGHT
Assistant County Attorney
Texas Bar No. 22044700
karon.wright@co.travis.tx.us

EXHIBIT “A”

***** -COMM. JOURNAL ***** DATE DEC-04- 08 ***** TIME 15:48 *****

MODE = MEMORY TRANSMISSION

START=DEC-04 15:47

END=DEC-04 15:48

FILE NO.=367

| STN NO. | COMM. | STATION NAME/EMAIL ADDRESS/TELEPHONE NO. | PAGES | DURATION |
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-TRAVIS COUNTY ATTORNEY -

***** UF-8000 v2 ***** -

- ***** -

- *****

DAVID A. ESCAMILLA
COUNTY ATTORNEYRANDY T. LEAVITT
FIRST ASSISTANTJAMES W. COLLINS
EXECUTIVE ASSISTANT314 W. 11TH, STE. 420
P.O. BOX 1748
AUSTIN, TEXAS 78767(512) 854-9513
FAX: (512) 854-9316

County of
TRAVIS
STATE OF TEXAS

COLLECTIONS DIVISION

J. ELLIOTT BECK
JAMES E. PRITCHARD
KARON Y. WRIGHT
URSULA MANNMEMBER OF THE COLLEGE
OF THE STATE BAR

Thursday, December 04, 2008

Harvey R. Miller
767 Fifth Avenue
New York, NY 10153RE: *In re Lehman Brothers Holdings, Inc.*; Case No. 08-13555, Chapter 11 in the
United States Bankruptcy Court, Southern District of New York, New York Division

Dear Mr. Miller:

The Travis County Attorney's Office represents various taxing jurisdictions in Travis County, Texas and Williamson County, Texas. We have received notice of the above referenced bankruptcy case. Please provide to us any information concerning any and all property owned by the Debtors within these jurisdictions. Information such as other names, billing numbers, parcel numbers, property location, and property type would be helpful to our office.

We have identified the following property which may belong to the debtor; however we are unsure. Please confirm whether or not the debtor owns the following:

Billing Number: 784649

Description: LEHMAN BROTHERS SMALL BUSINESS FIN
PERSONAL PROPERTY COMMERCIAL LEHMAN
BROTHERS SMALL BUSINESS FINANCE

Location: 6207 Bee Caves Road



DAVID A. ESCAMILLA
COUNTY ATTORNEY

RANDY T. LEAVITT
FIRST ASSISTANT

JAMES W. COLLINS
EXECUTIVE ASSISTANT

314 W. 11TH, STE. 420
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COLLECTIONS DIVISION

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URSULA MANN

†MEMBER OF THE COLLEGE
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767 Fifth Avenue
New York, NY 10153

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Description: LEHMAN BROTHERS; SMALL BUSINESS FIN
PERSONAL PROPERTY COMMERCIAL LEHMAN
BROTHERS SMALL BUSINESS FINANCE

Location: 6207 Bee Caves Road

If you have any questions, please call me at (512) 854-7223. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kedra D. Williams".

Kedra D. Williams
Clerk to Karon Y. Wright

EXHIBIT “B”

Hughes
Hubbard

Hughes Hubbard & Reed LLP
One Battery Park Plaza
New York, New York 10004-1482
Telephone: 212-837-6000
Fax: 212-422-4726
hugheshubbard.com

August 4, 2010

Sarah Loomis Cave
Direct Dial: 212-837-6559
cave@hugheshubbard.com

EXPRESS MAIL

J. Elliot Beck, Esq.
Assistant Travis County Attorney
P.O. Box 1748
Austin, TX 78767

RECEIVED

AUG 03 2010

TRAVIS COUNTY ATTORNEY'S OFFICE
TAX DIVISION

Re: *Travis County et al vs. Lehman Brothers, Inc. dba Small Business
Finance.*, Case No. D1GV100001060, Reference No. 2010-186707-1

B* 08428

Dear Mr. Beck:

We are counsel to James W. Giddens, as Trustee for the Liquidation of the Business of Lehman Brothers Inc. ("LBI"). We are in receipt of the Complaint dated July 28, 2010, filed by Plaintiff Travis County against LBI, *et al.*, in the 345th Judicial District Court of Travis County, Texas, Case No. D1GV100001060.

LBI has been placed by the Securities Investor Protection Corporation ("SIPC") into a liquidation proceeding pursuant to the Securities Investor Protection Act ("SIPA"), 15 U.S.C. § 78aaa *et seq.* in the cases captioned *Securities Investor Protection Corporation v. Lehman Brothers Inc.*, Case No. 08-CIV-8119 (GEL) (S.D.N.Y.) and *In re Lehman Brothers Inc.*, Adv. Proc. No. 08-01420 (JMP) (Bankr. S.D.N.Y.) (the "SIPA Proceedings").

On September 19, 2008, an Order Commencing Liquidation (the "LBI Liquidation Order") was entered by the United States District Court notifying all persons and entities that the automatic stay provisions of 11 U.S.C. § 362(a) operate as a stay of "the commencement or continuation, including the issuance or employment of process, of a judicial, administrative or other proceeding against LBI that was or could have been commenced before the commencement of this proceeding, or to recover a claim against LBI that arose before the commencement of this proceeding" (the "Automatic Stay"). A copy of the LBI Liquidation Order is enclosed.

It is the Trustee's position that the Complaint constitutes a violation of the Automatic Stay. Accordingly, based on the foregoing, we suggest that, to avoid a determination that a violation of the Automatic Stay has occurred, the Complaint as against LBI should be withdrawn. In the event that the Complaint is not withdrawn, we are prepared to file a Notice of Bankruptcy and an accompanying Proposed Order of Stay with the Court, and we may seek costs, including the resulting costs the Trustee may incur if the action is not withdrawn as against LBI, and other sanctions for a willful violation of the automatic stay.

J. Elliot Beck, Esq.
August 4, 2010

We look forward to hearing from you, on or before Monday, August 23, 2010, that you have withdrawn this action as against LBI. Please do not hesitate to contact me with any questions regarding this matter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "J. Elliot Beck".

Enclosure

SLC/drm

CERTIFICATE OF SERVICE

I, Karon Y. Wright, Assistant County Attorney, hereby certify that a true and correct copy of the foregoing **Travis County's Motion for Late Filing and Allowance of Proof of Claim** has been sent to all interested parties registered for electronic service with the U. S. Bankruptcy's Clerk's Office on or about the time this document was electronically filed with the Clerk on this **17th** day of **August 2010** and mailed by United States First Class Mail to any party listed below that is not registered.

/s/ Karon Y. Wright

DEBTORS' ATTORNEY

Weil Gotshal & Manges LLP
Attn: Harvey R. Miller
767 Fifth Avenue
New York, New York 10153

Metlife
Attn: David Yu
10 Park Avenue, P.O. Box 1902
Morristown, New Jersey 07962-1902

TRUSTEE

The Office of the United States Trustee
Attn: Andrew D. Velez-Rivera, Esq.
33 Whitehall Street, 21st Floor
New York, New York 10004

Elliott Management Corp.
Attn: Ed Joel
712 Fifth Avenue
New York, New York 10019

**COUNSEL FOR COMMITTEE OF
UNSECURED CREDITORS**

Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, New York 10005

The Bank of NY Mellon
Attn: Gerard Facendola
101 Barclay - 8 W
New York, New York 10286

**OFFICIAL COMMITTEE OF
UNSECURED CREDITORS**

Wilmington Trust Company
Attn: James J. McGinley
520 Madison Avenue, 33rd Floor
New York, New York 10022

The Vanguard Group Inc.
Attn: Stewart Hosansky
P.O. Box 2600, V31
Valley Forge, Pennsylvania 19482

Mizuho Corporate Bank, LTD. as Agent
Attn: Noel P. Purcell
1251 Avenue of the Americas
New York, New York 10020-1104

U.S. Bank. N.A.
Attn: Laura L. Moran
Corporate Trust Services
One Federal Street, 3d Floor
Boston, Massachusetts 02110